REMARKS

Claims 1-5 and 7-45 remain pending in this application, all of which stand rejected. Based on the foregoing amendments and following remarks, entry of this amendment and reconsideration and allowance of this application is respectfully requested.

Claim Objections

Claim 31 stands objected to as being identical to claim 30. Accordingly, claim 31 has been amended. Thus, Applicant believes that the informalities have been properly addressed, and as such, respectfully request withdrawal of the claim 30 objection.

Claim Rejections-35 U.S.C. §102

Claims 1-5, 10-22, 26-38, and 42-45 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,982,753 ("Pendleton"). Applicant respectfully traverses the rejections of these claims, since Pendleton does not disclose each and every element recited in these claims.

Although Applicant believes that the unamended claims are patentable over Pendleton, independent claim 1 has been amended to clarify that the mirror port is an external mirror port (i.e., a mirror port accessible by devices external to the switch), and independent claims 14 and 28 have been amended to clarify that the data packets are externally obtained from the switch. Also, independent claims 1, 14, and 28 have been amended to clarify that the port information is determined in response to the extraction of the network address information.

The Examiner has pointed to two different embodiments (Figs. 1 and 3) to show that Pendleton discloses the claimed invention. However, neither of these embodiments by themselves or in combination, disclose the claimed invention.

In particular, although the Fig. 1 embodiment of Pendleton includes an external mirror port, such embodiment does not disclose that port information of network address information is determined in response to extraction of the network address information. That is, there is simply no disclosure that the protocol analyzer 10 determines the port information of the switch 14. Although the Examiner states that it is inherent that the port information of the switch 14 be determined, so that data packets can be forwarded to the destination, such port information determination is only inherent within the switching functionality—not the monitoring functionality. The claimed invention requires the port information to be determined in response to the network address information extracted from the mirrored data packet (claim 1) or in response to the network address information extracted from data packets externally obtained from the switch (claims 14 and 28). Thus, with respect to the Fig. 1 embodiment of Pendleton, such port information determination would have to be made in response to the receipt of data packets by the test instrument 100 for it to anticipate the claimed invention. However, this is not the case. Notably, the data packets forwarded to the test instrument 100 of the Fig. 1 embodiment do not contain such port information, and thus, the test instrument 100 would not be able to determine the port information merely be analyzing the extracted network address information. Indeed, the current application discloses various means for obtaining port information from a switch, since such port information is not found in the typical network traffic data packets routed through the switch.

The Fig. 3 embodiment of Pendleton does not have an external mirror port, as required by claim 1, but rather uses an SNMP agent 32 within the switch 14 in place of an external mirror port. The port 11 through which the SNMP agent 32 communicates with the test instrument 100 is not a mirror port, and certainly not a port to which data packets from the ports 16, 18, 20, 22 are

forwarded. That is, the SNMP agent 32 forwards diagnostic information, not actual data packets, to the port 11.

In addition, the Fig. 3 embodiment does not determine port information in response to the extraction of the network address information from the data packets externally obtained from the switch. Although the Fig. 3 embodiment does build a port information table, as illustrated in Fig. 5, such port information is not determined by the test analyzer 100 in response to the extraction of network address information from the data packets received from the switch, as required by claims 1, 14, and 28. Rather, such port information is determined by the test analyzer simply as a result of receiving it from the MIB 40 contained in the switch 14 (see col. 6, lines 39-42). Perhaps this port information is communicated from the MIB 40 to the test analyzer 100 in the form of data packets, but such data packets are not those that are received by the switch 14, but rather data packets that are generated within the switch 14 in response to queries from the test analyzer 100. Although the Fig. 3 embodiment performs passive monitoring to detect network traffic to identify switches (see col. 7, lines 50-60), such passive monitoring is not performed to determine the port information of the switches. In fact, network traffic typically does not contain the port information of the switches through which the traffic travels, as explained above. Indeed, if such passive monitoring resulted in the acquisition of port information, there would be no apparent reason to include MIB 40 within the switch 14.

To the extent that the Examiner combines the uses features of the Fig. 1 to replace the missing features in Fig. 3, or vice versa, Applicant submits that this would not result in an anticipation, since the claimed combination must be disclosed in a single prior art reference for there to be an anticipation. Regardless, there is no suggestion to combine the Fig. 1 and 3 embodiments,

since, among other reasons, Pendleton discloses these two embodiments as being mutually exclusive. In particular, Pendleton discloses that the mirror port illustrated in Fig. 1 is replaced with the MIB architecture (see col. 6, lines 17-21).

Thus, independent claims 1, 14, and 28, as well as the claims depending therefrom (2-5, 10-13, 15-22, 26, 27, 29-38, and 42-45) are not anticipated by Pendleton.

In addition, claims 3, 20, and 36 require "interrogating said network switch to obtain said port information using said network address information." In concluding that Pendleton discloses this element, the Examiner states that the MIBs can be requested to build the port table. However, to the extent that the test analyzer 100 interrogates the switch 14 via the MIBs, it does not use the network address information extracted from data packets obtained from the switch 14 to perform such interrogation function. It simply just interrogates.

Claims 4, 21, and 37 require the interrogation to comprise "sending a first request to said network switch requesting a port index corresponding to said network address information" and "sending a second request to said network switch requesting said port information corresponding to said port index." In concluding that the test analyzer 100 of Pendleton requests a port index, the Examiner states that the test analyzer 100 queries the switch 14 using SNMP in order to get MIBs that show port information. However, Pendleton merely discloses that the MIBs are accessed using SNMP requests. It does not disclose that a port index is obtained using a first request, and then the port information corresponding to the port index is obtained using a second request.

Claims 16 and 32 require the data packets from which the relevant network address information is extracted to be obtained from a mirror port. As explained above with respect to claim 1, Pendleton does not disclose this.

Claim 44 requires "associating said port information with information contained in said obtained portion of data packets." In concluding that Pendleton discloses this element, the Examiner states it is inherent to determine port information in order to forward the data packet to the destination. However, as briefly discussed above, typical network traffic packets do not contain switch port information, but rather destination and source addresses.

Thus, Applicant respectfully requests withdrawal of the §102 rejections of claims 1-5, 10-22, 26-38, and 42-45.

Claim Rejections-35 U.S.C. §103

Claims 7-9, 23-25, and 39-41 stand rejected under 35 U.S.C. §103 as being obvious over Pendleton in view of U.S. Patent No. 4,922,488 ("Niestegge"). Applicant traverses this rejection, since neither Pendleton nor Niestegge, alone or in combination, disclose, teach, or suggest the combination of elements required by these claims.

In particular, claims 7-9, 23-25, and 39-41 depend from respective independent claims 1, 14, and 28, which are believed to be patentable over Pendleton as stated above, and Niestegge does not supplement the failed teaching of this combination.

In addition, claims 7, 23, and 39 require the port information determination to comprise placing the data packet(s) "in a first-in-first-out buffer waiting for responses from said network switch." Although Niestegge discloses such a buffer for storing data packets, there is no suggestion to modify the embodiments disclosed in Pendleton to include a buffer for storing data packets, since (1) no network traffic packets are transmitted between the test analyzer 100 and the switch 14 of the Fig. 3 embodiment; and (2) even if network traffic packets were somehow transmitted therebetween,

they are not used to obtain port information, so there is no apparent reason to store them in a first-in-first-out buffer to wait for such port information.

Claims 8, 24, and 40 further require the port information determination to further comprise releasing data packet(s) "from said first-in-first-out buffer after said network switch responds to said requests." There is simply no such disclosure in Niestegge. Instead, as the Examiner pointed out, Neistegge merely discloses the release of the data packets after a predetermined period of time.

Thus, Applicant submits that claims 7-9, 23-25, and 39-41 are not obvious over the combination of Pendleton and Niestegge, and as such, respectfully requests withdrawal of the §103 rejections of these claims.

Conclusion

Based on the foregoing, it is believed that, with entry of this amendment, all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (714) 830-0600.

Respectfully submitted,

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